



**THE ATTORNEY GENERAL  
OF TEXAS**

**GERALD C. MANN**

**ATTORNEY GENERAL**

**AUSTIN 11, TEXAS**

April 19, 1939

Mr. Claude A. Williams  
Assistant Secretary of State  
Austin, Texas

Dear Sir:

Opinion No. O-605

Re: Under what statutes is the Secretary of State authorized to sanction the creation of two soil and water conservation associations described? If authorized, what filing fee should be charged and would the associations be exempt from payment of franchise taxes?

Your request for an opinion on the above stated questions has been received by this office.

Article 3 of each proposed articles of incorporation of the Upper Brady Creek Soil and Water Conservation Association and The Warlupe Soil and Water Conservation Association indicate that it is the desire of the incorporators to incorporate under the provisions of the Cooperative Marketing Act. Title 93, Article 5737-5764, inclusive.

Article 5740, Revised Civil Statutes, reads as follows:

"An association may be organized to engage in any activity in connection with the marketing or selling of the agricultural products of its members, or with the harvesting, preserving, drying, processing, canning, packing, storing, handling, shipping, or utilization thereof, or the manufacturing or marketing of the by-products thereof; or in connection with the manufacturing, selling or supplying to its members of machinery, equipment or supplies; or in the financing of the above enumerated activities; or in any one or more of the activities specified herein. Provided, however, any such activity may extend to non-members and their products limited by Article 5738 as heretofore amended."

Mr. Claude A. Williams, April 19, 1939, Page 2 (0-605)

Article 2 of the proposed articles of incorporation of each of the above mentioned associations are identical except the names of the associations and read as follows:

"The purposes for which the Warlupe Soil and Watershed Association, is organized, is to engage in the conservation of soil and the storage of water, and the prevention of destructive floods. To construct tanks, reservoirs, lakes, ponds, and to engage any and all activities that will assist and further the district in the accomplishment, of soil building, water conservation, and flood control, and to accomplish these purposes to work cooperatively other conservation districts agencies, Counties and authorities and powers engaged in similar practices."

We do not think that any of the purposes outlined in the purpose clauses of these two proposed associations authorize the creation and incorporation of these associations under the Cooperative Marketing Act. (Ch. 8, Title 93, R. C. S.)

Article 1302, Revised Civil Statutes, sets forth and specifies the purposes for which private corporations may be formed or created, however, this statute does not provide for the creation or formation of a corporation for the purposes as set forth in the purpose clauses of the above mentioned proposed corporations.

After a careful search of the statutes, we have been unable to find any statutory provision authorizing associations with the purposes expressed by these two associations to be incorporated.

You are respectfully advised that it is the opinion of this Department that the statutes of this state do not authorize or provide for the creation or formation of corporations for the purposes as set forth in the proposed articles of incorporation submitted with your inquiry.

Trusting that the foregoing answers your inquiry, we remain

APPROVED:  
/s/ W. F. Moore  
FIRST ASSISTANT  
ATTORNEY GENERAL OF TEXAS

Very truly yours  
ATTORNEY GENERAL OF TEXAS  
By /s/ Ardell Williams  
Ardell Williams  
Assistant

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